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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,196	11/26/2003	Peter Worwag	A91848	1195

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EXAMINER

TILL, TERRENCE R

ART UNIT PAPER NUMBER

1744

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,196

Applicant(s)

WORWAG, PETER

Examiner

Terrence R. Till

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 8,11,15 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-7, 9, 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE patent to VEB Elektro (DE- 2,126,999) in view of Hunsicker (US-1,294,468).

The patent to VEB Elektro discloses a cleaning tool for a vacuum cleaning device, the cleaning tool comprising: a housing 1 having a bottom plate 3 provided with a working slot; a rotatingly driven working tool 6 rotatably supported in the housing and passing through the working slot so as to act on a surface to be cleaned; a motor 5 arranged in the housing and having a motor shaft; a gear system 7,12,13 connected between the motor and the working tool, wherein the gear system has a driving wheel 7 driven by the motor shaft and a driven wheel 13 fixedly connected to the working tool; the driving wheel has a first rotary center point and the driven wheel has a second rotary center point, wherein the first and second rotary center points define a connecting

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line, and wherein a rotary center point of the intermediate gear 12 is positioned at a spacing from the connecting line. The first and second rotary center points are fixed at the housing and wherein the intermediate gear is movable into a gap between the driving wheel and the driven wheel. VEB elektro also discloses a pivot arm 14, wherein the intermediate gear is secured on the pivot arm, the intermediate gear is loaded by a spring force 18 into the gap between the driving and driven wheels. VEB elektro does not disclose wherein the gear system further comprises a V-gear positioned between the driving wheel and the driven wheel, wherein the V-gear has an outer periphery that engages the peripheral grooves for establishing a driving connection between the driving wheel and the driven wheel. Rather, VEB elektro has a steel intermediate gear with a ribbed surface and the driving and driven wheels are made of rubber. The patent to Hunsicker discloses a gear system for a vacuum cleaner similar to that of VEB elektro including a v-belt pulley with a peripheral groove 23 and an intermediate gear 26 that has a concave driving surface (see figure 2). Such a grooved pulley drive system is old and well known, It would have been obvious to a person skilled in the art at the time the invention was made to modify the gear system of VEB Elektro to have V-gear positioned between the driving wheel and the driven wheel, wherein the V-gear has an outer periphery that engages the peripheral grooves in view of the teaching of Hunsicker for establishing a driving connection as these two drive systems are considered mechanical equivalents. With respect to claims 1 and 4, for the sake of argument, even if the intermediate gear of Hunsicker is not considered a "V-gear", because of the round cross-section, It would have been an obvious matter of engineering choice to modify the intermediate gear to be a V-gear- with a trapezoidal cross-section, since such a modification would have involved a mere change in the shape or form of a component. A

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change in shape or form is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

4. With respect to claims 2 and 3, Although VEB Elektro, as modified by Hunsicker, does not disclose the outer periphery of the V-gear is elastic and outer periphery is comprised of an elastic V-belt ring. VEB Elektro discloses the driving and driven wheels having the elastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of VEB Elektro, as modified by Hunsicker, to have the intermediate V-gear to have the elastic V-belt ring, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

5. With respect to claims 13 and 14, VEB Elektro, as modified by does not disclose the V-belt ring is comprised of a polyurethane mixture, nor wherein the V-belt ring has tension cords comprised of fabric. However, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the rubber used in VEB Elektro, as modified by Hunsicker, to be of a polyurethane mixture and have tension cords comprised of fabric since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

Allowable Subject Matter

6. Claims 8, 11, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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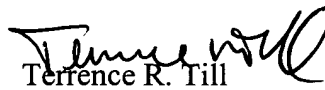
Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Friend also discloses an agitator having a grooved pulley driven via a grooved pulley drive wheel 9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Terrence R. Till
Primary Examiner
Art Unit 1744

trt